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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,902

02/23/2004

Max Stanford Tomlinson JR.

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EXAMINER

COBANOGLU, DILEK B

ART UNIT

PAPER NUMBER

3626

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/782,902	Applicant(s) TOMLINSON ET AL.	
	Examiner DILEK B. COBANOGLU	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/31/2007 has been entered.
2. Claim 13 has been canceled and claim 16 has been added. Claims 1-12, 14-16 remain pending in this application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1) in view of Satoh (U.S. Patent Publication No. 2002/0059236 A1).

A. Claim 1 has been amended now to recite a business method by which a payer and an individual other than the payer are authorized for access to digital

medical image data generated by up to a plurality of imaging facilities, the business method comprising the steps of:

- i. receiving digital medical image data generated by the imaging facilities using a gateway at each imaging facility (Jamroga; col. 7, lines 10-17, col. 8, lines 44-67, col. 10, line 53 to col. 11, line 52, figures 1-2, 5);
- ii. transmitting the received digital medical image data from the gateway to a central server via a network and storing the digital medical image data at the central server (Jamroga; col. 10, lines 21-52, col. 16, line 58 to col. 17, line 30, figures 1-2, 4-7);
- iii. providing the payer with access to the stored digital medical image data via an authorization process on the network for a fee (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67, col. 9, lines 22-33, col. 12, lines 29-65, col. 13, lines 12-20);
- iv. forwarding access to the stored digital medical image data to an individual other than the payer, wherein access is forwarded to the other individual by the payer and the other individual is thereafter provided with access to the stored digital medical image data via the authorization process on the network; and
- v. notifying the other individual that access has been forwarded to him, together with information on how to access it.
 - Jamroga fails to expressly teach the payer forwarding access to an individual other than the payer (or the granter) wherein access is

forwarded to the other individual by the payer (or the granter) and the other individual is thereafter provided with access to the stored data via the authorization process on the network and notifying the other individual that access has been forwarded to him, together with information on how to access it. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach the payer forwarding access to an individual other than the payer (or the granter) wherein access is forwarded to the other individual by the payer (or the granter) and the other individual is thereafter provided with access to the stored data via the authorization process on the network and notifying the other individual that access has been forwarded to him, together with information on how to access it (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

B. As per claim 2, Jamroga discloses wherein the digital medical image data is transmitted from the gateway (proxy server, 32) to the central server using an

authenticated session over a secure protocol (Fig. 2-6, 11, col. 12 line 29 to col. 13 line 12).

C. As per claim 3, Jamroga discloses wherein the network is the Internet (Figure 2).

D. As per claim 4, Jamroga discloses wherein the central server (#12) is remote from both the imaging facilities (#14, . first participant institution) and the payer (#14, second participant institution) (Fig. 1, col. 6 line 64 to col. 7 line 45).

E. As per claim 5, Jamroga discloses the step of determining if the digital medical image data received by the gateway is associated with the payer (Fig. 3-4, col. 9 line 47 to col. 10 line 52), wherein only digital medical image data determined to be associated with the payer is transmitted to the central server and stored (Fig. 3-4, .col. 9 line 47 to col. 10 line 52. col. 12 line 66 to col. 13 line 20).

F. As per claim 6, Jamroga discloses wherein the digital medical image data is received by the gateway using a DICOM protocol (Fig. 11, col. 10 line 53 to col. 11 line 10, col. 15 line 5 to col. 61 line 51).

G. As per claim 7, Jamroga discloses wherein the digital medical image data is transmitted to the central server and stored in the same format as it was received by the gateway (Figure 4, col. 7 line 56 to col. 8 line 23).

H. As per claim 15, Jamroga discloses a business method according to claim 1, wherein there are limitations on the power of the payer to forward access to other individuals.

The obviousness of modifying the teaching of Jamroga to include the payer forwarding access to an individual other than the payer (as taught by Satoh) is as addressed above in the rejection of claim 1 and incorporated herein.

I. As per new claim 16, Jamroga discloses a business method according to claim 1.

Jamroga fails to expressly teach notifying the other individual by e-mail that access has been forwarded to him. However, this feature is well known in the art, as evidenced by Satoh.

In particular, Satoh discloses teach notifying the other individual by e-mail that access has been forwarded to him (Satoh; paragraphs: 0010-0011, 0025-0029, figure 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Satoh with the motivation of controlling access rights concisely in an environment wherein a number of users on the network use data in common (Satoh; paragraph: 0009).

5. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1), Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Wood et al. (hereinafter Wood) (U.S. Patent No. 5,851,186).

A. As per claim 8, Jamroga discloses billing a participant institution for accessing medical image data (Fig. 1, col. 13 lines 12-20).

Jamroga fails to expressly disclose receiving a report generated by the imaging facilities and stored at the central server. Wood discloses the steps of: receiving a report corresponding to digital medical image data generated by the imaging facilities (Fig. 1, #22, col. 2 line 60 to col. 3 line 42); and storing the report at the central server (Fig. 1, #24b, col. 2 line 60 to col. 3 line 42).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of enabling diagnostic information and reports to be accessed from remote locations (Wood; col. 1, lines 43-57).

B. As per claim 9, Jamroga discloses wherein the medical image data is encrypted and transmitted to the central server via the network using an authenticated and secure communication session (Fig. 2-6, 11, col. 12, line 29 to col. 13, line 12).

Jamroga does not expressly disclose that the medical image data is in the form of a report. Wood discloses generating a report by imaging facilities and transmitting the report to a server (Fig. 1, col. 2, line 60 to col. 3, line 42).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within

the method of Jamroga with the motivation of increasing the security of medical information that is sent over a network.

C. As per claim 10, Jamroga discloses a business method according to Claim 8, further comprising the step of providing an interface for the payer to forward access for both of the stored digital medical image data and the corresponding reports to the other individual.

The obviousness of modifying the teaching of Jamroga to include the payer forwarding access to an individual other than the payer (as taught by Satoh) is as addressed above in the rejection of claim 1 and incorporated herein.

D. As per claim 11, Jamroga discloses the step of recording access to the stored digital medical image data and corresponding reports, wherein access records are provided to the payer via the network for digital medical image data and corresponding reports associated with the payer (col. 12 line 29 to col. 13 line 20, col. 14 line 55 to col. 15 line 4). As per the recitation of "reports," note the teachings and discussion in the rejection of claim 8.

E. As per claim 12, Jamroga does not expressly disclose where access to the stored digital medical image data and corresponding reports is provided using a web-based viewer. Wood discloses using a web browser to view web pages and image data (Fig. 1-2, 5-6, col. 3 lines 20-42). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Wood within the method of Jamroga with the motivation of

enabling diagnostic information to be accessed from remote locations (Wood; col. 1, lines 55-57).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1), Satoh (U.S. Patent Publication No. 2002/0059236 A1) and further in view of Peled et al. (hereinafter Peled) (U.S. Patent Publication No. 2005/0066165 A1).

A. As per claim 14, Jamroga discloses a business method according to Claim 1.

- Jamroga fails to expressly teach the other individual is granted access for a limited time. However, this feature is well known in the art, as evidenced by Peled.

In particular, Peled discloses the other individual is granted access for a limited time (Peled; paragraphs: 0123, 0351).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Peled with the motivation of protecting confidential information (Peled; abstract and paragraph: 0123).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Integrated system and method for ordering and cumulative results reporting of medical tests 6018713 A, Electronically transmitted payment system 20020099652, Method and apparatus for

providing a service to transfer messages over a communications network 20020104026, Method for secure transmission and receipt of data over a computer network using biometrics 20020116508, Electronic mail system, method and apparatus 20030233577, Digital object delivery and management system with dynamically created temporary FTP access codes 20040088680, Healthcare payer organization and provider organization information exchange system 20040204963, Method and system for protecting confidential information 20050066165.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGLU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./

Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626